

BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of)	
)	
MUR 6875)	DISMISSAL AND
Steve Knight)	CASE CLOSURE UNDER THE
Steve Knight for Congress,)	ENFORCEMENT PRIORITY CELA
and Kelly Lawler, as treasurer)	SYSTEM
)	

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances.

The Office of General Counsel has scored MUR 6875 as a low-rated matter and has determined that it should not be referred to the Alternative Dispute Resolution Office.¹ For the reasons set forth below, the Office of General Counsel recommends that the Commission dismiss the allegations that Steve Knight for Congress and Kelly Lawler, in her official capacity as treasurer, (the "Committee"), violated the Act or Commission regulations.²

¹ The EPS rating information is as follows: Complaint Filed: September 30, 2014. Response from Steve Knight, Steve Knight for Congress, and Kelly Lawler Filed: December 30, 2014.

² Steve Knight for Congress was the principal campaign committee for Steve Knight, current member of Congress and 2014 candidate for California's 25th Congressional District seat.

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The Complaint alleges that the Committee violated the Act and Commission regulations by airing radio advertisements that failed to include a statement of the candidate's approval in the disclaimer. Compl. at 1-2. The Complaint also alleges that the Committee failed to disclose campaign expenses related to travel in March 2014 that were paid for by the candidate from personal funds, as well as costs related to a campaign billboard in Lancaster, CA. Compl. at 2-5.

The Committee responded by acknowledging that there were "inadvertent omissions" in its initial 2014 April Quarterly Report, and stating that it had corrected the errors in an amended report. Resp. at 2-3. The Committee filed an amended 2014 April Quarterly Report on October 2, 2014, that disclosed a non-monetary contribution of \$558 from the candidate for travel to Washington, DC, as well as reporting a \$787.95 debt that it had incurred for billboard advertising.³ The Committee also stated that it had "refined [its] internal systems to prevent errors like this in the future." Resp. at 2. The Committee's Response also stated that it believed the radio advertisement disclaimers were in compliance, however the ad, which the Complainant recorded and submitted with the Complaint, did not include a statement of approval from the candidate. Resp. at 3.

The Act requires that radio communications by candidates contain a disclaimer including, among other things, a spoken statement that identifies the candidate and states that the candidate approved the communication.⁴ Although the radio advertisement included the statement "Paid for by Steve Knight for Congress," it did not include the approval statement, as required by 52 U.S.C. § 30120(d)(1)(A). *See also* 11 C.F.R. § 110.11(c)(3)(i). Thus, the disclaimer was technically noncompliant, but it appears that the advertisement contained sufficient identifying information to prevent the public from being misled as to its source.

³ *See* Steve Knight for Congress Amended 2014 April Quarterly Report, filed October 2, 2014, at 35, 39, 45.

⁴ *See* 52 U.S.C. §§ 30120(a)(1), (d)(1)(A); 11 C.F.R. §§ 110.11(b)(1), (c)(3)(i).

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Candidate committees are required to file reports of receipts and disbursements that include contributions received, expenditures made, and debts incurred. 52 U.S.C. § 30104(b)(2-4), (8). See also 11 C.F.R. § 104.3(a), (b), (d). It appears that the Committee's initial 2014 April Quarterly Report failed to report the candidate's travel expenses in March 2014 that Knight paid for with personal funds⁵, and it also failed to report either an expenditure or debt incurred related to the billboard. However, the Committee filed an amended 2014 April Quarterly Report that included the missing activity.

In light of the technical nature of the disclaimer violation, the *de minimis* value of the unreported financial activity, the remedial action taken by the Committee in amending its April Quarterly Report, and in furtherance of the Commission's priorities relative to other matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the allegations that that Steve Knight, Steve Knight for Congress and Kelly Lawler, in her official capacity as treasurer, violated 52 U.S.C. §§ 30120(a)(1), (d)(1)(A); 30104(b)(2-4), (8); and 11 C.F.R. §§ 110.11(b)(1); (c)(3)(i); 104.3(a), (b), and (d), pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985). The Office of General Counsel also recommends that the Commission approve the attached Factual and Legal Analysis and the appropriate letters, and close the file.

⁵ Travel expenses paid for by a candidate from personal funds shall constitute reportable expenditures if the travel is campaign-related. 11 C.F.R. § 106.3(b)(1).

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RECOMMENDATIONS

1. Dismiss the allegation that Steve Knight, Steve Knight for Congress and Kelly Lawler, in her official capacity as treasurer, violated 52 U.S.C. §§ 30120(a)(1) and (d)(1)(A), 30104(b)(2-4), (8); and 11 C.F.R. §§ 110.11(b)(1) and (c)(3)(i), 104.3(a), (b), (d);
2. Approve the attached Factual and Legal Analysis and the appropriate letters; and
3. Close the file.

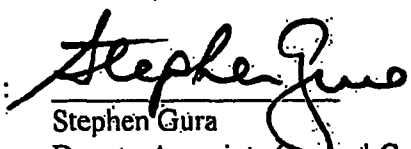
General Counsel

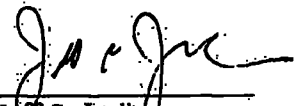
Kathleen M. Guith
Acting Associate General Counsel
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9.8.16

Date

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Attachment:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Steve Knight
Steve Knight for Congress
and Kelly Lawler, as treasurer¹

MUR 6875

I. INTRODUCTION

This matter was generated by a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations by Steve Knight, and Steve Knight for Congress and Kelly Lawler, in her official capacity as treasurer, (the "Committee"). It was scored as a low-rated matter under the Enforcement Priority System, by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Complaint alleges that the Committee violated the Act and Commission regulations by airing radio advertisements that failed to include a statement of the candidate's approval in the disclaimer. Compl. at 1-2. The Complaint also alleges that the Committee failed to disclose campaign expenses related to travel in March 2014 that were paid for by the candidate from personal funds, as well as costs related to a campaign billboard in Lancaster, CA. Compl. at 2-5.

¹ Steve Knight for Congress was the principal campaign committee for Steve Knight, current member of Congress and 2014 candidate for California's 25th Congressional District seat.

1 The Committee responded by acknowledging that there were “inadvertent omissions” in
2 its initial 2014 April Quarterly Report, and stating that it had corrected the errors in an amended
3 report. Resp. at 2-3. The Committee filed an amended 2014 April Quarterly Report on October
4 2, 2014, that disclosed a non-monetary contribution of \$558 from the candidate for travel to
5 Washington, DC, as well as reporting a \$787.95 debt that it had incurred for billboard
6 advertising.² The Committee also stated that it had “refined [its] internal systems to prevent
7 errors like this in the future.” Resp. at 2. The Committee’s Response also stated that it believed
8 the radio advertisement disclaimers were in compliance, however the ad, which the Complainant
9 recorded and submitted with the Complaint, did not include a statement of approval from the
10 candidate. Resp. at 3

11 **B. Legal Analysis**

12 The Act requires that radio communications by candidates contain a disclaimer
13 including, among other things, a spoken statement that identifies the candidate and states that
14 the candidate approved the communication.³ Although the radio advertisement included the
15 statement “Paid for by Steve Knight for Congress,” it did not include the approval statement, as
16 required by 52 U.S.C. § 30120(d)(1)(A). *See also* 11 C.F.R. § 110.11(c)(3)(i). Thus, the
17 disclaimer was technically noncompliant, but it appears that the advertisement contained
18 sufficient identifying information to prevent the public from being misled as to its source.

19 Candidate committees are required to file reports of receipts and disbursements that
20 include contributions received, expenditures made, and debts incurred. 52 U.S.C. § 30104(b)(2-
21 4), (8). *See also* 11 C.F.R. § 104.3(a), (b), (d). It appears that the Committee’s initial 2014 April

² See Steve Knight for Congress Amended 2014 April Quarterly Report, filed October 2, 2014, at 35, 39, 45.

³ See 52 U.S.C. §§ 30120(a)(1), (d)(1)(A); 11 C.F.R. §§ 110.11(b)(1), (c)(3)(i).

1 Quarterly Report failed to report the candidate's travel expenses in March 2014 that Knight paid
2 for with personal funds⁴, and it also failed to report either an expenditure or debt incurred related
3 to the billboard. However, the Committee filed an amended 2014 April Quarterly Report that
4 included the missing activity.

5 Accordingly, in light of the technical nature of the disclaimer violation, the *de minimis*
6 value of the unreported financial activity, the remedial action taken by the Committee in
7 amending its April Quarterly Report, and in furtherance of the Commission's priorities relative to
8 other matters pending on the Enforcement docket, the Commission exercises its prosecutorial
9 discretion and dismisses the allegations pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985).

⁴ Travel expenses paid for by a candidate from personal funds shall constitute reportable expenditures if the travel is campaign-related. 11 C.F.R. § 106.3(b)(1).